

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2091 OF 2006  
IN  
WRIT PETITION NO.4376 OF 1997

Digambar Motiram Jadhav  
and Anr.

..Applicants.

Vs.

The Municipal Council,  
Malegaon, and 4 Ors.

..Respondents

Mr.P.N.Joshi, Advocate for the Applicants.  
Ms.S.S.Bhende, A.G.P., for the State.  
Mr.S.M.Sabred, Advocate for Respondent No.1.

CORAM : SMT.RANJANA DESAI AND  
SMT.V.K.TAHILRAMANI, JJ.

DATED : 29TH AUGUST, 2006.

**P.C. :-**

1. We have heard Mr.Joshi learned counsel appearing for the applicants.

2. By this Civil Application, the applicants are seeking permission to delete prayer clauses (a) & (b) and to restrict their prayers in the writ petition only to prayer clauses (c), (e) & (f). Prayer clauses (a) & (b) in the writ petition are as under :

"(a). Issue an appropriate writ/order directing the Respondents 2 & 3 to forthwith declare and pass the award u/s.11 of the Land Acquisition Act for the entire area of 2 Hectors and 55 Ares from Survey No.54, Sangameshwar, Malegaon as per the notification dated 18.10.1995 within statutory limitation of 2 years;

(b). In the alternative, issue an appropriate writ/order that in the event the Respondents 2 & 3 are not in a position to pass the award within statutory period of 2 years, the Respondents be directed to release the entire land of 2 Hectors and 55 Ares from reservation as site No.113 from the development plan of Respondent No.1;"

3. Mr.Joshi states that award under section 11 of

the Land Acquisition Act has already been declared on 10th November, 1997 and in the award 45 Ares of the land in question is excluded because there is encroachment on the said land. He submits that in view of the fact that the award has already been declared, in so far as the land in question, excluding the said 45 Ares land is concerned, prayers (a) & (b) reproduced hereinabove have become redundant, and therefore he may be permitted to delete the said prayers and restrict the writ petition to prayers (c), (e) & (f). Mr.Joshi also submitted that land references being Land Reference Nos.68/1998 & 69/1998 are pending before the Joint District Judge, Nashik and the said references are not being heard in view of the prayers (a) & (b) in the instant petition.

4. We have also heard Ms.Bhende, the learned AGP for the State.

5. In the facts and circumstances of the case, in view of the statement made by Mr.Joshi that the award in respect of the land in question except 45 Ares is already declared, in our opinion, prayers (a) & (b)

of the writ petition do not survive and hence they are permitted to be deleted. Needles to say that the pending land references can proceed in respect of the land in respect of which the award is declared.

6. Civil Application is disposed of in above terms.

[SMT.RANJANA DESAI, J.]

[SMT.V.K.TAHILRAMANI, J.]